

REPORTING CASES OF ABUSE AND NEGLECT

1. SUMMARY OF MAJOR CHANGES: Major changes include:

a. Adds references to the Victims of Child Abuse Act Reauthorization Act of 2018, P.L. 115-424, and the Elder Justice Act of 2010, 42 U.S.C. §§ 1397j through 1397m-5 (see paragraph 5 and Appendix A).

b. Removes the requirement for Department of Veterans Affairs (VA) medical facilities to establish a local policy to implement this directive.

2. RELATED ISSUES: VHA Directive 1115(1), Military Sexual Trauma (MST) Program, dated May 8, 2018; VHA Directive 1605.01, Privacy and Release of Information, dated July 24, 2023; VHA Directive 1110.02, Social Work Professional Practice, dated August 16, 2024; VHA Directive 1198, Intimate Partner Violence Assistance Program, dated June 11, 2024; VHA Directive 1160.08(1), VHA Workplace Violence Prevention Program, dated August 23, 2021.

3. POLICY OWNER: Care Management and Social Work Services (12CMSW), Office of Patient Care Services, is responsible for the content of this directive. Questions may be referred to the National Social Work Program at VHA12CMSWCareMgmtSWSection@va.gov.

4. LOCAL DOCUMENT REQUIREMENTS: VA medical facilities are required to develop and maintain standard operating procedures to implement this directive (see paragraph 2.f.(3)).

5. RESCISSIONS: VHA Directive 1199(2), Reporting Cases of Abuse and Neglect, dated November 28, 2017, is rescinded.

6. RECERTIFICATION: This Veterans Health Administration (VHA) directive is scheduled for recertification on or before the last working day of September 2029. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

7. IMPLEMENTATION SCHEDULE: This directive is effective upon publication.

September 3, 2024

VHA DIRECTIVE 1199

**BY DIRECTION OF THE OFFICE OF THE
UNDER SECRETARY FOR HEALTH:**

/s/ M. Christopher Saslo
DNS, ARPN-BC, FAANP
Assistant Under Secretary for Health
for Patient Care Services/CNO

NOTE: *All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.*

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REPORTING CASES OF ABUSE AND NEGLECT

1. POLICY

It is Veterans Health Administration (VHA) policy that all covered professionals, while acting in the scope of their employment conducting any VHA-authorized health care activities, report suspected cases of abuse and neglect to the appropriate authorities as set forth in this directive. Reports of Military Sexual Trauma are covered by VHA Directive 1115.01, Military Sexual Trauma Mandatory Training Requirements, dated July 15, 2024, and are excluded from reporting requirements under this directive.

NOTE: *This policy is independent of other VHA policy governing the reporting of sexual assaults and other defined public safety incidents that occur on Department of Veterans Affairs (VA) property, including VA medical facilities. For those reporting requirements and procedures, see VHA Directive 5019.02(1), Harassment, Sexual Assaults and Other Defined Public Safety Incidents in Veterans Health Administration, dated September 12, 2022. For sexual assault reporting that did not occur on VA property, see VHA Directive 1101.14, Emergency Medicine, dated March 20, 2023. AUTHORITY:* 34 U.S.C. § 20341; 38 U.S.C. § 7301(b).

2. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for ensuring overall VHA compliance with this directive.

b. **Assistant Under Secretary for Health for Patient Care Services/Chief Nursing Officer.** The Assistant Under Secretary for Health for Patient Care Services/Chief Nursing Officer is responsible for supporting Care Management and Social Work Services (CMSW) with implementation and oversight of this directive.

c. **Assistant Under Secretary for Health for Operations.** The Assistant Under Secretary for Health for Operations is responsible for:

(1) Communicating the contents of this directive to each of the Veterans Integrated Services Networks (VISNs).

(2) Assisting VISN Directors to resolve implementation and compliance challenges in all VA medical facilities within the VISN.

(3) Providing oversight of VISNs to ensure compliance with this directive and its effectiveness.

d. **Executive Director, Care Management and Social Work Services.** The Executive Director, CMSW is responsible for:

(1) Providing oversight for VISN and VA medical facility compliance with this directive and ensuring corrective action is taken when non-compliance is identified. This includes addressing noncompliance issues with VISN Directors and VA medical facility Directors and providing guidance to resolve noncompliance issues.

(2) Updating this directive and all VHA-wide communication which supports implementation of this directive as needed.

e. **Veterans Integrated Services Network Director.** The VISN Director is responsible for ensuring that all VA medical facilities within the VISN comply with this directive and informing leadership when barriers to compliance are identified. This includes addressing non-compliance issues with the Executive Director, CMSW and VA medical facility Directors.

f. **VA Medical Facility Director.** The VA medical facility Director is responsible for:

(1) Ensuring overall VA medical facility compliance with this directive and appropriate corrective action is taken if non-compliance is identified. This includes addressing noncompliance issues with the VISN Director and Executive Director, CMSW.

(2) Ensuring telehealth programs follow the process of the VA medical facility providing care to the Veteran for reporting cases of abuse and neglect covered by this directive.

(3) Ensuring standard operating procedures are established to implement this directive.

(4) Ensuring that required reports are made pursuant to applicable Federal and state law in a manner that is wholly consistent with applicable Federal privacy and confidentiality laws, for example, the Privacy Act at 5 U.S.C. § 552a, Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule at 45 C.F.R. parts 160 and 164, and 38 U.S.C. §§ 5701, 5705 and 7332. VA medical facility Directors must work with their Privacy Officer and their Office of Chief Counsel in the District to develop tools to assist them in streamlining and standardizing this reporting activity. **NOTE:** *If the state requests health records of the Veteran, no disclosures can be made unless authorized by 5 U.S.C. § 552a(b)(7).*

(5) Ensuring a plan for staff education is developed in consultation with the VA medical facility Privacy Office and published, which addresses:

(a) Federal child abuse reporting laws.

(b) Applicable state abuse and neglect reporting laws, including a statement that VA's legal authority to disclose the information for these reports derives from a standing written request letter from the relevant state or local agency that complies with the requirements of VHA Directive 1605.01, Privacy and Release of Information, dated July 24, 2023, and 38 U.S.C. § 5701(f). In the absence of such a letter, which should be an infrequent situation, the report may not be made without prior written authorization from the individual whose information is to be disclosed to the state.

(c) Signs and symptoms of abuse and neglect (as those terms are used in applicable laws).

- (d) Identification and treatment of abuse and neglect.
 - (e) State and local reporting procedures.
 - (f) Documentation of abuse and neglect.
 - (g) Instruction on maintaining and safeguarding evidence of alleged abuse and neglect.
- (6) Maintaining all standing request letters from state agencies authorized by law to pursue civil or criminal law enforcement activities on file in the VA medical facility and acknowledging each request, as authorized by 38 U.S.C. § 5701(f). **NOTE:** For further information, see VHA Directive 1605.01.
- (7) Submitting standing request letters to the originating agency every 3 years for review and renewal.

(8) Submitting each standing request to the Office of Chief Counsel in the District for review. **NOTE:** The corresponding Privacy Act routine use authority for disclosing information pursuant to a standing request is contained at 5 U.S.C. § 552a(b)(3) and in the routine uses of the Privacy Act System of Records, 24VA10A7, Patient Medical Record–VA. Visit <https://www.va.gov/OGC/DistrictOffices.asp> to locate contact information for the appropriate Office of Chief Counsel in the District.

(9) Ensuring that reports of abuse to state entities are limited to providing the name and address of the abused person and that information specifically permitted or required by the state law does not violate Federal information disclosure laws. **NOTE:** Information protected under 38 U.S.C. § 7332, which pertains to treatment for drug and alcohol abuse, sickle cell anemia or testing for infection with human immunodeficiency virus (HIV), may be disclosed to comply with a state request if a Veteran signs a prior written special consent. Specific information related to HIV may be released to a public health authority charged under Federal or state law with the protection of public health pursuant to a standing written request; to a court of competent jurisdiction pursuant to a court order; or to a state Prescription Drug Monitoring Program. If the state agency which has received a report of abuse seeks additional information, such information may be provided only with the patient's authorization or in response to a letter prepared by the law enforcement agency charged with the investigation in accordance with the provisions of 5 U.S.C. § 552a(b)(7).

g. VA Covered Professionals. **NOTE:** The VA covered professional who determines that facts exist triggering the reporting of abuse or neglect must promptly document all pertinent information about the abuse or neglect in the appropriate templated note within the VHA or Readjustment Counseling Service electronic health record (EHR). A VA covered professional's failure to make a timely report in accordance with applicable state or Federal law can result in the imposition of significant criminal penalties, including both fines and imprisonment. A VA covered professional directly filing a report of abuse or neglect is responsible for:

(1) Documenting the following in the EHR:

(a) That the required report was filed in a timely manner with the appropriate agency.

(b) A copy of the report filed.

(c) Any specific evidence that has been retained, such as physical specimens or photographs. **NOTE:** *An administrative document class may be created in the EHR, and the report document must be scanned into the EHR.*

(d) That examination and treatment for conditions caused by the abuse or neglect were offered to Veterans who are eligible for VA health care; or, in non-emergency and non-acute cases where the Veteran is not eligible for VA health care, that the Veteran was referred to their private provider or community resource for any needed follow-up care.

(2) Completing all state-required reporting forms which compile information specifically provided for, or required to be reported, by the state law in response to its standing request subject to applicable privacy and confidentiality laws. This information must be reported to the state law enforcement agency, and a copy must be placed in the patient's administrative record.

(3) Submitting a report in the state where the incident occurred.

(4) Informing the Veteran that under Federal privacy laws VA is permitted to disclose certain information to state, tribal, foreign, or Federal agencies under certain circumstances, and providing a copy of Notice of Privacy Practices to the Veteran if requested.

(5) Submitting an in-house referral to a local VA social worker following a mandated report.

(6) Verifying that if a mandated report is being made about a Veteran who has experienced abuse, neglect, or exploitation, as defined in this directive, including intimate partner violence (IPV), the individual, spouse, or partner does not have access to the EHR before entering details of the report in the record. If a mandated report is being made about a Veteran using IPV against a spouse or partner, a collateral chart documenting the abuse and report must be created to ensure the safety of the spouse or partner and to prevent retaliation by the Veteran.

(7) Upon receipt of a report from a VA supervisor, contacting the VA employee who made the initial report of abuse or neglect to confirm what they heard or observed.

h. **VA Social Workers.** **NOTE:** *VA social workers provide comprehensive support to Veterans focused on evaluation of key social determinants of health domains, including access to care, economics, housing, psychological status, cognitive status, and social support. For additional information, see VHA Directive 1110.02, Social Work Professional Practice, dated August 16, 2024. In addition to their responsibilities as VA*

covered professionals (see paragraphs 2.g. and 6.c.), VA social workers are responsible for:

- (1) Initiating a thorough assessment and identifying psychosocial risk factors requiring intervention for individuals experiencing abuse.
- (2) Facilitating referrals for clinical assessment, treatment, and care for individuals experiencing abuse or using violence.
- (3) Maintaining a list of VA and community resources that provide or arrange for evaluation and care for individuals experiencing abuse.

3. TRAINING

There are no formal training requirements associated with this directive; however, optional trainings related to abuse and neglect available in the Talent Management System (TMS) are as follows:

- a. Universal Elder Abuse Issues (TMS ID 13100387).
- b. Child Abuse (Neglect) (NFED 12914).
- c. Intimate Partner Violence Assistance Program Overview (VA 131001788).

4. RECORDS MANAGEMENT

All records regardless of format (for example paper, electronic, electronic systems) created by this directive must be managed as required by the National Archives and Records Administration (NARA) approved records schedules found in VHA Records Control Schedule 10-1. Questions regarding any aspect of records management can be addressed to the appropriate Records Officer.

5. BACKGROUND

a. The following summary of Federal and state laws governing reporting of suspected child and elder abuse provides necessary context for implementation of this directive. Appendix A includes greater detail on these laws and their application for VA covered professionals while conducting any VHA-authorized health care activities. In addition to a duty to report child abuse, some states require reporting of domestic violence/IPV (DV/IPV), sexual assaults, and abuse and neglect of vulnerable adults.

b. The Victims of Child Abuse Act, 34 U.S.C. § 20341, and the Victims of Child Abuse Act Reauthorization Act of 2018, P.L. 115-424, mandate that when a VA covered professional (see definition in paragraph 6), who is engaged in a professional capacity or activity on Federal land or in a Federally operated or contracted facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse (see definition in paragraph 6), that a VA covered professional must report the suspected abuse as soon as possible to the appropriate state agency. VA covered

professionals must report suspected child abuse, regardless of where the child abuse may have occurred or where the suspected victim is cared for or resides. The reporting requirement is also triggered when the VA covered professional has knowledge that a patient under that professional's care viewed child pornography, even in those instances where the VA covered professional does not know the identity of the victim.

c. Reports of suspected child abuse must be made to the local law enforcement agency or local child protective services agency that has jurisdiction to investigate reports of child abuse or to protect child abuse victims in the land area or facility in question. See 28 C.F.R. § 81.2. Criminal penalties for failure to comply with the reporting requirements when a provider learns of facts that give reason to suspect that a child has suffered an incident of abuse are found at 18 U.S.C. § 2258 and include both a fine and imprisonment.

d. The Elder Justice Act of 2010, 42 U.S.C. §§ 1397j through 1397m-5, is the first comprehensive legislation to address the abuse, neglect, and exploitation of older adults at the Federal level. The law authorized a variety of programs and initiatives to better coordinate Federal responses to elder abuse, promote elder justice research and innovation, support Adult Protective Services systems, and provide additional protections for residents of long-term care facilities. The Act does not mandate reporting by VA providers, but reporting of suspected cases of elder abuse is encouraged pursuant to applicable privacy and confidentiality laws.

e. Any information disclosed by VA must comply with applicable privacy and confidentiality laws, including the Privacy Act at 5 U.S.C. § 552a, the HIPAA Privacy Rule at 45 C.F.R. parts 160 and 164, and 38 U.S.C. §§ 5701, 5705 and 7332. Reports of abuse and neglect to states in accordance with Federal and applicable state law must be done in a manner consistent with Federal information disclosure laws. For purposes of this directive, this means that reports must be filed pursuant to a standing written request letter from a law enforcement agency, or pursuant to Federal mandatory reporting requirements.

6. DEFINITIONS

a. **Child.** For purposes of this directive, a child is an individual under the age of 18 who is born alive, meaning after complete expulsion or extraction from their mother, at any stage of development, and who does any of the following: (1) breathes; (2) has a beating heart; (3) has pulsation of the umbilical cord; or (4) definite movement of voluntary muscles. See 1 U.S.C. § 8. **NOTE:** *Any pregnancy tissue, embryo or fetus is not considered a child under this definition, regardless of conflicting state law.*

b. **Child Abuse.** Child abuse is physical or mental injury, sexual abuse, or exploitation or negligent treatment of a child. This includes the employment or use of a child to engage in sexual exploitation of a child, such as for child pornography or child prostitution. Some states define child abuse to include a child's exposure to or witnessing of DV/IPV. In these states, child abuse includes any DV/IPV to which a child is exposed. Consult the Office of Chief Counsel in the District for clarification. **NOTE:**

Visit <https://www.va.gov/OGC/DistrictOffices.asp> to locate contact information for your Office of Chief Counsel in the District.

c. **VA Covered Professional.** VA covered professionals are VHA employees or contractors who are allopathic and osteopathic physicians; dentists; hospital personnel and administrators; registered nurses; licensed practice/vocational nurses; certified nurse practitioners; certified registered nurse anesthetists; certified nurse midwives; certified clinical nurse specialists; physician assistants; health care practitioners; chiropractors; pharmacists; optometrists; podiatrists; emergency medical technicians; ambulance drivers; medical examiners; alcohol or drug treatment personnel; persons performing a healing role or practicing the healing arts; psychologists, psychiatrists and mental health professionals; social workers; licensed or unlicensed marriage, family and individual counselors; childcare workers; administrators; and VA police. VHA Chaplains are not specifically excluded as mandatory reporters because of status as clergy; however, VHA Chaplains acting as clergy may be exempt from the mandatory disclosure provisions and should consult with District Counsel when issues arise to promote full compliance with reporting requirements when applicable or not otherwise exempt. ***NOTE: All other VHA employees and Health Professions Trainees (HPTs) have a duty to report suspected cases of abuse and neglect directly to their VHA supervisor. If the situation requires additional reporting, the supervisor assists and supports the employee/trainee through the process. VHA supervisors who are not covered professionals themselves must forward the report to a VA covered professional as soon as possible as defined in this directive.***

d. **Domestic Violence.** DV is any violence (e.g., physical, non-physical) or abuse that occurs within the “domestic sphere” or “at home,” and may include child abuse, elder abuse, and other types of interpersonal violence.

e. **Elder Abuse.** Elder abuse is any physical, sexual, or psychological abuse, financial exploitation, or neglect of persons age 60 or older by a caregiver or another person in a relationship involving an expectation of trust.

f. **Electronic Health Record.** EHR is the digital collection of patient health information resulting from clinical patient care, medical testing, and other care-related activities. Authorized VA health care providers may access EHR to facilitate and document medical care. EHR comprises existing and forthcoming VA software including Computerized Patient Record System (CPRS), Veterans Information Systems and Technology Architecture (VistA), and Cerner platforms. ***NOTE: The purpose of this definition is to adopt a short, general term (EHR) to use in VHA national policy in place of software-specific terms while VA transitions platforms.***

g. **Health Professions Trainee.** An HPT is an individual appointed under 38 U.S.C. §§ 7405 or 7406 who is participating in clinical or research training under supervision to satisfy program or degree requirements. HPT is a general term to describe undergraduate, graduate, and post-graduate students, interns, residents, chief residents, fellows, VA advanced fellows, and pre- and post-doctoral fellows who spend all or part of their training experiences at VA medical facilities. Some HPTs may be in

non-clinical training fields but train in patient areas or use VA patient records or data in their training. *For more information see VHA Directive 1400.03, Educational Relationships, dated February 23, 2022.*

h. **Intimate Partner Violence.** IPV is any violent behavior including, but not limited to, physical or sexual violence, stalking, and psychological aggression (including coercive acts) by a current or former intimate partner that occurs on a continuum of frequency and severity which ranges from one episode that might or might not have lasting impact, to chronic and severe episodes over a period of years. IPV can occur in heterosexual or same-sex relationships and does not require sexual intimacy or cohabitation. **NOTE:** *For additional information about IPV, see VHA Directive 1198, Intimate Partner Violence Assistance Program, dated June 11, 2024.*

i. **VHA-Authorized Health Care Activities.** VHA-authorized health care activities are professionally assigned duties performed in VA medical facilities plus those performed in the community, such as those performed under VHA's Home-Based Primary Care, Mental Health Residential Rehabilitation Programs, and other similar programs where health care services are delivered by VHA staff to Veterans in home or community settings. If VA covered professionals are tasked by contract or other similar arrangements to go into state Veterans Homes to deliver VA medical services to their residents, their actions are also VHA-authorized health care activities. Additionally, VHA-authorized health care activities include clinical outreach services provided to homeless Veterans in the community and VA health care providers who perform forensic health examinations, including Compensation and Pension examinations or disability-related examinations performed in completing forms pursuant to 38 C.F.R. § 17.38(a)(1)(xv).

j. **Vulnerable Adult.** A vulnerable adult is a person 18 years of age or older who has a physical or mental condition which substantially impairs them from adequately providing for their own care or protection. This includes a person who is impaired in the ability to adequately provide for their own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction.

7. REFERENCES

- a. P.L. 115-424.
- b. 1 U.S.C. § 8.
- c. 5 U.S.C. § 552a.
- d. 18 U.S.C. §§ 2258, 3283.
- e. 34 U.S.C. § 20341.
- f. 38 U.S.C. §§ 1720D(a)(1), 5701, 7301(b), 7332, 7405, 7406, 8111.

- g. 42 U.S.C. §§ 1397j through 1397m-5.
- h. 28 C.F.R. § 81.2.
- i. 38 C.F.R. § 17.38(a)(1)(xv).
- j. 45 C.F.R. parts 160, 164.
- k. VHA Directive 1101.14, Emergency Medicine, dated March 20, 2023.
- l. VHA Directive 1110.02, Social Work Professional Practice, dated August 16, 2024.
- m. VHA Directive 1115.01, Military Sexual Trauma Mandatory Training Requirements, dated July 15, 2024.
- n. VHA Directive 1160.08(1), VHA Workplace Violence Prevention Program, dated August 23, 2021.
- o. VHA Directive 1198, Intimate Partner Violence Assistance Program, dated June 11, 2024.
- p. VHA Directive, 1400.03, Educational Relationships, dated February 23, 2022.
- q. VHA Directive 1605.01, Privacy and Release of Information, dated July 24, 2023.
- r. VHA Directive 5019.02(1), Harassment, Sexual Assaults and Other Defined Public Safety Incidents in Veterans Health Administration, dated September 12, 2022.
- s. Duty to Report Suspected Child Abuse Under 42 U.S.C. § 13031, dated May 29, 2012: <https://www.justice.gov/file/20601/download>.
- t. Offices of Chief Counsel in the Districts, OGC Chief Counsel District Map: <https://www.va.gov/OGC/DistrictOffices.asp>.

**APPLICATION TO VA COVERED PROFESSIONALS: LAWS RELATED TO
REPORTING SUSPECTED ABUSE AND NEGLECT**

1. FEDERAL LAW APPLICABLE TO VA: CHILD ABUSE

a. The Victims of Child Abuse Act, 34 U.S.C. § 20341, and the Victims of Child Abuse Act Reauthorization Act of 2018, P.L. 115-424, provide that if a Department of Veterans Affairs (VA) covered professional, while engaged in that professional capacity or activity on Federal land or in a Federally operated or contracted facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, that person must report the suspected abuse as soon as possible to the agency designated by the United States (U.S.) Attorney General to receive such reports (see 34 U.S.C. § 20341). A VA covered professional's knowledge of a patient under their care viewing child pornography triggers the reporting requirement under 34 U.S.C. § 20341, because they may be aware of facts that give reason to suspect that the child—subject of the pornographic images viewed by the patient—has suffered an incident of child abuse under 34 U.S.C. § 20341.

b. The purpose of this timely reporting requirement is to facilitate the investigation and prosecution of these types of crimes by appropriate law enforcement officials. The U.S. Assistant Attorney General advises that “section 13031 is best read to impose a reporting obligation on all persons who, while engaged in the covered professions and activities on Federal lands or in Federal facilities, learn of facts that give reason to suspect that child abuse has occurred, regardless of where the abuse might have occurred or where the suspected victim is cared for or resides.” (see U.S. Department of Justice, Office of Legal Counsel, Assistant Attorney General's Memorandum for Will A. Gunn General Counsel, United States Department of Veterans Affairs, Duty to Report Suspected Child Abuse Under 42 U.S.C. § 13031, dated May 29, 2012). That is, a VA covered professional is required to report suspected child abuse discovered while engaged in the covered activities (i.e., professions or occupations specified in section 20341(a)-(b) on Federal lands or in Federal facilities). This must not be interpreted as limiting the reporting requirement to cases of suspected child abuse occurring or taking place on Federal lands or in Federal facilities. VA covered professionals subject to this requirement include “hospital personnel,” “persons performing a healing role,” and “social workers” (see 34 U.S.C. § 20341(b)).

c. The Department of Justice has issued regulations providing that the reports required under the Victims of Child Abuse Act and the Victims of Child Abuse Act Reauthorization Act be made to the local law enforcement agency or the local childcare protective services agency that has the jurisdiction to investigate reports of child abuse or to protect child abuse victims in the land area or facility in question (see 28 C.F.R. § 81.2). In other words, Federal law requires the reporting of suspected acts of child abuse to state entities designated by the Attorney General to receive such reports.

d. The Federal child abuse reporting law is intended to facilitate the investigation and

timely prosecution of such crimes, as the Federal prosecution of child abuse crimes is subject to a specified statute of limitations (see 18 U.S.C. § 3283). A VA covered professional's intentional failure to make a timely report can result in criminal penalties (see 18 U.S.C. § 2258). Any questions from VA employees regarding the scope of the Federal reporting requirement (for suspected child abuse) should be directed to the appropriate Office of Chief Counsel in the District who, if necessary, can seek any needed clarification from the local Assistant U.S. Attorney. (Note that it is the Department of Justice, not the VA, which has ultimate responsibility for interpretation and enforcement of this Federal reporting law). **NOTE:** Visit <https://www.va.gov/OGC/DistrictOffices.asp> to locate contact information for the appropriate Office of Chief Counsel in the District.

2. STATE ABUSE AND NEGLECT REPORTING LAWS

a. **Background.** State reporting laws generally pertain to abuse suffered by specified vulnerable populations and do not require global reporting of assaults. For the same policy reasons, states have similar reporting laws for certain cadres of professionals who, while acting within their official or professional capacity, learn of or reasonably suspect that a child or certain adults are, or have been, the subject of abuse or neglect. In general, they are required to report that information as soon as possible to the appropriate local or state law enforcement agency in accordance with applicable state law. These reports are typically directed to state and local law enforcement agencies and other departments tasked with responsibility for the advocacy, protection, or health of such individuals. Those entities then investigate the reports and, if confirmed, refer the reports onward for appropriate prosecution.

b. **Reporting by VA Employees.** A state cannot compel a VA medical facility or its employees acting within the scope of their VA employment to comply with a state reporting law that conflicts with Federal law or otherwise impedes Federal operations. Further, the Privacy Act at 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule at 45 C.F.R. parts 160 and 164, and 38 U.S.C. §§ 5701, 5705, and 7332 govern the disclosure of VA patient information; reporting may not occur unless the requirements of these statutes, as applicable, are followed. VA medical facilities must work with their Privacy Officer and Office of Chief Counsel in the District to determine if a particular case of suspected abuse or neglect of a child or adult is one that is subject to state reporting requirements and, if so, whether VA has legal authority to disclose the pertinent information to the state. Chief Counsels can also advise on how the state reporting laws define key terms, such as child, adult, abuse, and neglect. As to the latter, adults covered by state reporting laws are characteristically those who are aged, incapacitated, dependent, disabled, ill (particularly from mental health conditions), recipients of certain health care or custodial services, victims of domestic abuse, and the like. In other words, these laws are aimed implicitly at protecting individuals who are most vulnerable to abuse and neglect by others and are likely unable to report such incidents to the proper authorities themselves.

c. Reports of abuse and neglect to states in accordance with Federal and applicable state law may only be done in a manner consistent with Federal information disclosure

laws and must not impede Federal operations. For additional information, see VHA Directive 1605.01, Privacy and Release of Information, dated July 24, 2023.

3. MILITARY SEXUAL TRAUMA

Reports of Military Sexual Trauma are covered under VHA Directive 1115.01, Military Sexual Trauma Mandatory Training Requirements, dated July 15, 2024.